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**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF TEXAS**

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PAUL M. DEAN, JR.,

Plaintiff,

*versus*

MICHAEL J. ASTRUE,<sup>1</sup>  
Commissioner of Social Security  
Administration,

Defendant.

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CIVIL ACTION NO. 1:06-CV-128

**MEMORANDUM OPINION ADOPTING REPORT AND  
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

The court heretofore ordered that this matter be referred to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge. The magistrate judge recommends that the decision of the Commissioner be affirmed and the case dismissed.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Upon receipt of the magistrate judge's report and recommendation, plaintiff's counsel withdrew from representation. Plaintiff, proceeding *pro se*, filed objections to the magistrate judge's Report and Recommendation.

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Michael J. Astrue was appointed Commissioner of Social Security Administration on February 12, 2007. He is automatically substituted as a party under 42 U.S.C § 405(g) and Rule 25(d)(1), Federal Rules of Civil Procedure.

The court has conducted a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b). After careful consideration, the court concludes the objections are without merit. Plaintiff now argues issues not argued in his brief and demands a jury trial. Plaintiff is directed to “Notice to Parties,” Docket No. 7, which instructs that (1) any issue not discussed in his brief will be deemed waived, and (2) complaint for review of the Commissioner’s determination is treated as an appeal. Granting a jury trial to award benefits is not within the court’s scope of review. Plaintiff’s objections further request the court to re-weigh evidence to find that he is disabled, action which is also beyond the court’s scope of review. Jurisdiction in social security cases does not permit the court to determine fact issues or re-weigh evidence. 42 U.S.C. § 405(g); *see Leggett v. Chater*, 67 F.3d 558, 564 (5th Cir. 1995) (citing *Fraga v. Bowen*, 810 F.2d 1296, 1302 (5th Cir. 1987)).

**ORDER**

Accordingly, plaintiff’s objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge’s recommendation.

SIGNED at Beaumont, Texas, this 14th day of March, 2008.



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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE